

**STATEMENT OF JEFFREY TESCH  
REGARDING  
RAISED BILL NO. 403 (LCO No. 2623)**

**AN ACT CONCERNING FORECLOSURE BY COMMERCIAL  
POWER OF SALE**

**To the honorable co-chairmen and members of the Banking Committee:**

My name is Jeffrey Tesch and I am the Managing Director of RCN Capital, a nationwide commercial lender located in South Windsor. RCN Capital specializes in financing the acquisition, renovation, and stabilization of distressed properties. Many banks are reluctant to finance distressed real estate; creating a void that leaves properties in poor condition, often vacant, and off the tax rolls. Private lenders like RCN fill that void and provide investors with the means to redevelop and rejuvenate those properties. On the basis of my experience as a national leader in commercial lending, including experience with the lending and foreclosure laws of many other states, I write in support of Raised Bill No. 403.

Raised Bill No. 403 seeks to authorize foreclosure of mortgages, other than mortgages of owner-occupied residential real property, by statutory power of sale. Non-judicial foreclosure, such as the type proposed by Raised Bill No. 403, is permitted in varying forms in at least thirty-five other states, including Rhode Island, Massachusetts, New Hampshire, and Maine. The proposed bill is modeled after the law currently in effect in Massachusetts. Non-judicial foreclosures tend to be faster and less expensive than judicial foreclosures and make those states more attractive to lenders. Unlike the process used in Massachusetts, which can be used for both commercial and residential mortgages, Raised Bill No. 403 applies only to commercial mortgages (i.e., mortgages encumbering non-owner occupied real estate). The bill includes protections for commercial borrowers, including a requirement that lenders provide a sixty-day notice of intention to foreclose. During that period, borrowers have the right to cure the default and reinstate their loan. Denis R. Caron, Vice President of Commonwealth Land Title Insurance Company and Chairman of the Standards of Title Committee of the Connecticut Bar Association has written to express his support for Raised Bill No. 403. Mr. Caron's support is based, in part, on these protections which actually extend much

further than the protections to which commercial borrowers are entitled under existing Connecticut law.

In addition to the protections for borrowers, the bill protects the residential tenants that live in properties subject to foreclosure by power of sale. Raised Bill No. 403 expressly states that a foreclosure by power of sale is ineffective to foreclose the interest of a residential tenant. In fact, this protection would even extend so far as to protect a residential tenant living in a property zoned for mixed-use. Raised Bill No. 403 also protects churches by including a specific exemption forbidding foreclosure by power of sale when granted by a religious organizations formed under C.G.S. Section 33-264A.

There is a tremendous amount of capital that is waiting to be deployed in Connecticut but there is reluctance by RCN and a large network of commercial loan providers to deploy those funds because of the unfavorable commercial foreclosure laws. While not a panacea, Raised Bill No. 403 can be an economic development tool that helps make Connecticut a more attractive place to do business. I urge your favorable consideration of this legislation.

Sincerely,

Jeffrey Tesch  
Managing Director  
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